



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 18 2017

REPLY TO THE ATTENTION OF:
LC-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jon D. Jacobs
Jacobs Law Firm PLLC
1100 New Hampshire Avenue, N.W.
Suite 300
Washington, D.C. 20037

Re: Consent Agreement and Final Order In the Matter of Creation Farm, Incorporated
Docket Number **FIFRA-05-2018-0001**

Mr. Jacobs:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on October 18, 2017 with the Regional Hearing Clerk.

The civil penalty in the amount of \$1,500 is to be paid in the manner described in paragraphs 96-97. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Abigail Wesley", is written over a horizontal line.

Abigail Wesley
Pesticides and Toxics Compliance Section

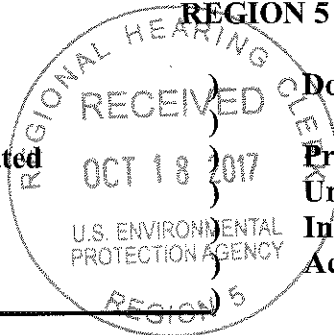
Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Creation Farm, Incorporated
Frankfort, Michigan

Respondent.



Docket No. FIFRA-05-2018-0001

Proceeding to Assess a Civil Penalty
Under Section 14(a) of the Federal
Insecticide, Fungicide, and Rodenticide
Act, 7 U.S.C. § 136l(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5.

3. The Respondent is Creation Farm, Incorporated (Creation Farm), a corporation doing business in the State of Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations made in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. Respondent certifies that as of the date of its execution of this CAFO, it has taken appropriate actions to address and correct the alleged FIFRA violation set forth in this CAFO, and to the best of its knowledge, it is in compliance with the requirements of FIFRA, 7 U.S.C. §§ 136 to 136y.

Statutory and Regulatory Background

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states that it is unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a.

11. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

12. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.” Also see 40 C.F.R. §152.3.

13. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” Also see 40 C.F.R. §152.3.

14. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” as “any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator [of the EPA] declares to be a pest” under Section 25(c)(1) of FIFRA. Also see 40 C.F.R. §152.5.

15. Section 2(p)(2) of FIFRA, 7 U.S.C. § 136(p)(2) defines “labeling” as “all labels and other written, printed or graphic matter accompanying the pesticide at any time or to which reference is made on the label or in literature accompanying the pesticide.”

16. 40 C.F.R. § 152.15(a) states, in pertinent part, that no person may distribute or sell any pesticide product that is not registered under FIFRA. It further states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide.

17. Section 14(a)(1), 7 U.S.C. § 136l(a)(1), provides that any registrant, commercial applicator, wholesaler, dealer, retailer or other distributor who violates any provision of FIFRA may be assessed a civil penalty by the Administrator of not more than \$5,000 for each offense.

18. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and 40 C.F.R. Part 19, the Administrator of EPA may assess a civil penalty against any retailer who violates any provision of FIFRA of up to \$7,500 for each offense that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

19. Respondent is a “person” as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

20. From December 2014 through the date of the execution of this CAFO, Respondent owned

or operated a retail store located at 284 South Benzie Boulevard, Beulah, Michigan 49617.

21. At all times relevant to this CAFO, Creation Farm operated at least three websites: www.creationpharm.com, www.creationsoap.com, and www.skincareguardian.com.

22. On or about May 28, 2015, an EPA inspector employed by the Michigan Department of Agriculture and Rural Development (MDARD) and authorized to conduct inspections under FIFRA conducted an inspection at Respondent's retail store.

23. On August 25, 2016, EPA, Region 5 issued a Stop, Sale, Use, or Removal Order (SSURO) to Respondent.

Bug-Me-Not
Lotion

24. During the May 28, 2015 inspection, the MDARD inspector collected sales and distribution records from Respondent for **Bug-Me-Not Lotion**.

25. During the May 28, 2015 inspection, the MDARD inspector purchased one 4- ounce container of **Bug-Me-Not Lotion** at Respondent's retail store.

26. The 4-ounce container of **Bug-Me-Not Lotion** had a label affixed to it that stated, among other things:

- a. Bug-Me-Not Lotion;*
- b. NOT A CHEMICAL INSECT REPELLENT;*
- c. NO SYNTHETIC INSECTICIDES;*
- d. NO PETROCHEMICALS;*
- e. The botanical natural ingredients in this repellent formula include ...; and*
- f. WWW.CREATIONPHARM.COM.*

27. On or about May 19, 2015, the MDARD inspector viewed Respondent's website at www.creationpharm.com. The product description found at www.creationpharm.com

stated, among other things:

Bug-Me-Not Lotion with Organic Virgin Coconut Oil

Sun soothing coconut oil and bug repellent essential oils combine together for this wonderful lotion to enhance your outdoor experience.

Bug me not is a proprietary blend that includes essential oils and carrier oils found to be effective on a wide variety of insects on all continents.

It creates an aroma frequency barrier on your body that interferes with the motor frequency of the insects life force and they respond by avoiding any contact once they detect the interference in their airspace and leave your immediate area.

Most Insect Repellants are highly toxic that contain DEET and other dangerous chemicals. Bug-Me-Not is a unique blend of non-toxic carrier and essential oils with unique action that we cannot legally claim repel insects like Mosquitos and Black Flies, so we won't.

Customers have told us they have had a positive outdoor experience using it in the presence of Mosquitoes, Black Flies, No See-Ums, Gnats, Fleas, and other biting insects without experiencing the discomfort of BITES.

However, according to the Michigan Dept. of Agriculture pesticide enforcement division, the FDA, and the EPA we cannot tell you that their positive outdoor experience in the presence of these biting insects is related to the use of the Bug- Me-Not or that the insects like Mosquitos and Black Flies were repelled by this product, so we won't tell you that...

Bug-Me-Not with its herbal ingredients that many have told us they believe have insect repelling properties is applicable for people and pets. Safe for Children age 2 and up with parental controls and application.

We can no longer tell you or claim that the ingredients listed below repel insects, so we won't. However[,] we are in possession of several books on the subject that are considered correct, accepted professional texts dealing with Aromatherapy, and there is a lot of educational material and studies available on the internet that suggest these essential oils repel insects. We are not saying that or making claims that these essential oils in this blend may repel insects, other published studies and texts are making those claims and statements about the essential oils, we are not claiming that.

28. **Bug-Me-Not Lotion** was a “pesticide” as defined at Section 2(u) of FIFRA, 7

U.S.C. § 136(u).

29. At all times relevant to the CAFO, **Bug-Me-Not Lotion** was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

30. On or about July 3, 2013, Respondent distributed or sold **Bug-Me-Not Lotion** to Oryana Natural Coop in Traverse City, MI.

31. On or about May 27, 2014, Respondent distributed or sold **Bug-Me-Not Lotion** to Oryana Natural Coop in Traverse City, MI.

Bug-Me-Not insects and sun Lotion

32. During the May 28, 2015 inspection, the MDARD inspector purchased one 4-ounce container of **Bug-Me-Not insects and sun Lotion** at Respondent's retail store. The 4-ounce container of **Bug-Me-Not insects and sun Lotion** had a label affixed to it that stated, among other things: *Bug-Me-Not*.

33. **Bug-Me-Not insects and sun Lotion** was a "pesticide" as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

34. At all times relevant to the CAFO, **Bug-Me-Not insects and sun Lotion** was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

**Bug-Me-
Not**

35. During the May 28, 2015 inspection, the MDARD inspector collected sales and distribution records from Respondent for **Bug-Me-Not**.

36. During the May 28, 2015 inspection, the MDARD inspector purchased one 4-ounce container of **Bug-Me-Not** at Respondent's retail store.

37. The 4-ounce container of **Bug-Me-Not** had a label affixed to it that stated, among other things:

a. *Bug-Me-Not*;

- b. NOT A CHEMICAL INSECT REPELLENT;
- c. NO SYNTHETIC INSECTICIDES;
- d. NO PETROCHEMICALS;
- e. The botanical natural ingredients in this repellent formula include...; and
- f. WWW.CREATIONPHARM.COM.

38. On or about May 19, 2015, the MDARD inspector viewed Respondent's website at www.creationpharm.com. The product description found at www.creationpharm.com stated, among other things:

Bug-Me-Not Natural repellant – safe effective bug repellant Bug-Me-Not

Bug-Me-Not Natural Repellent – safe effective repellent for Pets, People and their Children. Original Formula 4 OZ Mosquitos, Black Flies, Deer Flies, No-See-Ums hate it!

Bug me not is a proprietary blend that includes essential oils and carrier oils found to be effective on a wide variety of insects on all continents.

It creates an aroma frequency barrier on your body that interferes with the motor frequency of the insects life force and they respond by avoiding any contact once they detect the interference in their airspace and leave your immediate area.

Most Insect Repellants are highly toxic that contain DEET and other dangerous chemicals. Bug-Me-Not is a unique blend of non-toxic carrier and essential oils with unique action that we cannot legally claim repel insects like Mosquitos and Black Flies, so we won't.

Customers have told us they have had a positive outdoor experience using it in the presence of Mosquitoes, Black Flies, No See-Ums, Gnats, Fleas, and other biting insects without experiencing the discomfort of BITES.

However, according to the Michigan Dept. of Agriculture pesticide enforcement division, the FDA, and the EPA we cannot tell you that their positive outdoor experience in the presence of these biting insects is related to the use of the Bug- Me-Not or that the insects like Mosquitos and Black Flies were repelled by this product, so we won't tell you that...

Bug-Me-Not with its herbal ingredients that many have told us they believe have insect repelling properties is applicable for people and pets. Safe for

Children age 2 and up with parental controls and application.

We can no longer tell you or claim that the ingredients listed below repel insects, so we won't. However[,] we are in possession of several books on the subject that are considered correct, accepted professional texts dealing with Aromatherapy, and there is a lot of educational material and studies available on the internet that suggest these essential oils repel insects. We are not saying that or making claims that these essential oils in this blend may repel insects, other published studies and texts are making those claims and statements about the essential oils, we are not claiming that.

39. **Bug-Me-Not** was a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C.

§ 136(u).

40. At all times relevant to the CAFO, **Bug-Me-Not** was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

41. On or about July 3, 2013, Respondent distributed or sold **Bug-Me-Not** to Oryana Natural Coop in Traverse City, MI.

42. On or about May 27, 2014, Respondent distributed or sold **Bug-Me-Not** to Oryana Natural Coop in Traverse City, MI.

Bug-Me-Not Mist

43. During the May 28, 2015 inspection, the MDARD inspector collected sales and distribution records from Respondent for **Bug-Me-Not Mist**.

44. During the May 28, 2015 inspection, the MDARD inspector purchased a one 4-ounce container of **Bug-Me-Not Mist** at Respondent’s retail store.

45. The 4-ounce container of **Bug-Me-Not Mist** had a label affixed to it that stated, among other things:

- a. *Bug-Me-Not;*
- b. *NOT A CHEMICAL INSECT REPELLENT;*
- c. *NO SYNTHETIC INSECTICIDES;*

d. NO PETROCHEMICALS; and

e. "WWW.CREATIONPHARM.COM.

46. On or about May 19, 2015, the MDARD inspector viewed Respondent's website at www.creationpharm.com. The product description found at www.creationpharm.com stated, among other things:

Bug-Me-Not Mist

Bug-Me-Not...

Bug me not is a proprietary blend that includes essential oils and carrier oils found to be effective on a wide variety of insects on all continents.

It creates an aroma frequency barrier on your body that interferes with the motor frequency of the insects life force and they respond by avoiding any contact once they detect the interference in their airspace and leave your immediate area.

Most Insect Repellants are highly toxic that contain DEET and other dangerous chemicals. Bug-Me-Not is a unique blend of non-toxic carrier and essential oils with unique action that we cannot legally claim repel insects like Mosquitos and Black Flies, so we won't.

Customers have told us they have had a positive outdoor experience using it in the presence of Mosquitoes, Black Flies, No See-Ums, Gnats, Fleas, and other biting insects without experiencing the discomfort of BITES.

However, according to the Michigan Dept. of Agriculture pesticide enforcement division, the FDA, and the EPA we cannot tell you that their positive outdoor experience in the presence of these biting insects is related to the use of the Bug- Me-Not or that the insects like Mosquitos and Black Flies were repelled by this product, so we won't tell you that...

Bug-Me-Not with its herbal ingredients that many have told us they believe have insect repelling properties is applicable for people and pets. Safe for Children age 2 and up with parental controls and application.

We can no longer tell you or claim that the ingredients listed below repel insects, so we won't. However[,] we are in possession of several books on the subject that are considered correct, accepted professional texts dealing with Aromatherapy, and there is a lot of educational material and studies available on the internet that suggest these essential oils repel insects. We are not saying that or making claims that these essential oils in this blend may repel insects, other published studies and texts are making those claims and statements about the essential oils, we are not claiming that.

47. **Bug-Me-Not Mist** was a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

48. At all times relevant to this CAFO, **Bug-Me-Not Mist** was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

49. On or about June 9, 2014, Respondent distributed or sold **Bug-Me-Not Mist** to Oryana Natural Coop in Traverse City, MI.

**Pet
Shampoo**

50. During the May 28, 2015 inspection, the MDARD inspector purchased one 4-ounce bar of **Pet Shampoo**.

51. The 4-ounce bar of **Pet Shampoo** had a label affixed to it that stated, among other things: *Good for Pets coat & skin, With Flea Repellent Herbs.*

52. **Pet Shampoo** was a “pesticide” as defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

53. At all times relevant to the CAFO, **Pet Shampoo** was not registered under Section 3 of FIFRA, 7 U.S.C. § 136(a).

Note: All label and website language is italicized to indicate quotes.

Count 1

54. All preceding paragraphs are incorporated by reference.

55. On or about May 28, 2015, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not Lotion**, to a MDARD inspector at Respondent’s retail store in Beulah, Michigan.

56. Respondent’s distribution or sale of an unregistered pesticide, **Bug-Me-Not Lotion**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

57. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 2

58. All preceding paragraphs are incorporated by reference.

59. On or about July 3, 2013, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not Lotion**, to Oryana Natural Coop in Traverse City, Michigan.

60. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not Lotion**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

61. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 3

62. All preceding paragraphs are incorporated by reference.

63. On or about May 27, 2014, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not Lotion**, to Oryana Natural Coop in Traverse City, Michigan.

64. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not Lotion**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

65. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 4

66. All preceding paragraphs are incorporated by reference.

67. On or about May 28, 2015, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not insects and sun Lotion**, to a MDARD inspector at Respondent's retail store in Beulah, Michigan.

68. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not insects and sun Lotion**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

69. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 5

70. All preceding paragraphs are incorporated by reference.

71. On or about May 28, 2015, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not**, to a MDARD inspector at Respondent's retail store in Beulah, Michigan.

72. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

73. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 6

74. All preceding paragraphs are incorporated by reference.

75. On or about July 3, 2013, Respondent distributed or sold an unregistered pesticide,

Bug-Me-Not, to Oryana Natural Coop in Traverse City, Michigan.

76. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

77. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 7

78. All preceding paragraphs are incorporated by reference.

79. On or about May 27, 2014, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not**, to Oryana Natural Coop in Traverse City, Michigan.

80. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

81. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 8

82. All preceding paragraphs are incorporated by reference.

83. On or about May 28, 2015, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not Mist**, to a MDARD inspector at Respondent's retail store in Beulah, Michigan.

84. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not Mist**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. §

136j(a)(1)(A).

85. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 9

86. All preceding paragraphs are incorporated by reference.

87. On or about June 9, 2014, Respondent distributed or sold an unregistered pesticide, **Bug-Me-Not Mist**, to Oryana Natural Coop in Traverse City, Michigan.

88. Respondent's distribution or sale of an unregistered pesticide, **Bug-Me-Not Mist**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

89. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

Count 10

90. All preceding paragraphs are incorporated by reference.

91. On or about May 28, 2015, Respondent distributed or sold an unregistered pesticide, **Pet Shampoo**, to a MDARD inspector at Respondent's retail store in Beulah, Michigan.

92. Respondent's distribution or sale of an unregistered pesticide, **Pet Shampoo**, constitutes an unlawful act pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

93. Respondent's violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A) subjects Respondent to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. §136l(a).

**Civil Penalty and Other
Relief**

94. Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(4), requires the Administrator to consider the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation, when assessing an administrative penalty under FIFRA.

95. Based on an evaluation of the facts alleged in this CAFO, the factors in Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), specifically including the Respondent's size of business, ability to continue in business, and gravity of the violation, and EPA's Enforcement Response Policy for the Federal Insecticide, Fungicide, and Rodenticide Act, dated December 2009, Complainant has determined the appropriate penalty to settle this action is \$1,500.

96. Within 30 calendar days after the effective date of this CAFO, Respondent must pay a \$1,500 civil penalty for the FIFRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance
Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

In the comment or description field of the electronic funds transfer, include "Creation Farm, Incorporated" and the docket number of this CAFO.

97. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson

Blvd. Chicago, IL
60604

Abigail Wesley (LC-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson
Blvd. Chicago, IL
60604

Nidhi K. O'Meara (C-
14J) Office of Regional
Counsel
U.S. EPA, Region 5
77 West Jackson
Blvd. Chicago, IL
60604

98. This civil penalty is not deductible for federal tax purposes.

99. If Respondent does not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

100. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

101. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the

Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses for their respective attorneys:

omeara.nidhi@epa.gov (for Complainant), and jjacobs@jacobsllf.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

102. This CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO and in the August 25, 2016 SSURO.

103. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

104. This CAFO does not affect Respondent's responsibility to comply with FIFRA and other applicable federal, state, and local laws.

105. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.

106. The terms of this CAFO bind Respondent, its successors, and assigns.

107. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

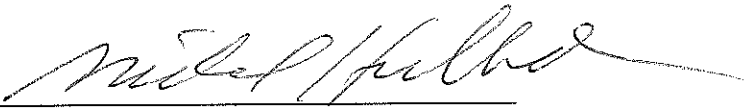
108. Each party agrees to bear its own costs and attorney's fees, in this action.

109. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:
Creation Farm, Incorporated**

Creation Farm, Incorporated, Respondent

9-25-2017
Date


Michael Hulbert
Vice President
Creation Farm, Incorporated

In the Matter of:
Creation Farm, Incorporated

United States Environmental Protection Agency, Complainant

10/17/12
Date


Brigid Lowery
Brigid Lowery
Acting Director
Land and Chemicals Division

In the Matter of:
Creation Farm, Incorporated
Docket No. FIFRA-05-2018-0001

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

October 17, 2014
Date



Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Creation Farm, Incorporated
Docket Number: **FIFRA-05-2018-0001**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **FIFRA-05-2018-0001**, which was filed on October 18, 2017, in the following manner to the following addressees:

Copy by Certified Mail to
Respondent:

Mr. Jon D. Jacobs
Jacobs Law Firm PLLC
1100 New Hampshire Avenue, N.W.
Suite 300
Washington, D.C. 20037

Copy by E-mail to
Attorney for Complainant:

Ms. Nidhi K. O'Meara
omeara.nidhi@epa.gov

Copy by E-mail to
Attorney for Respondent:

Mr. Jon D. Jacobs
jjacobs@jacobsllf.com

Copy by E-mail to
Regional Judicial Officer:

Ann Coyle
coyle.ann@epa.gov

Dated: October 18, 2017

LaDawn Whitehead
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S):

7009 1680 0000 7666 2505